

David

Catherine W. Seidel, Acting Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

January 13, 2006

RE: 800 MHz Rebanding, WT Docket 02-55

Ms. Seidel:

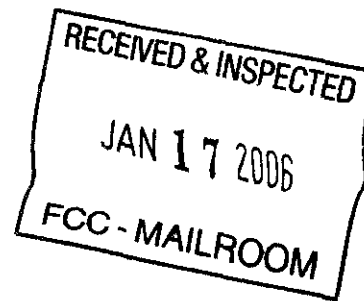
I have enclosed a courtesy copy of a letter, dated January 11, 2006, that has been and is being distributed to several public agency officials and executives that are currently in the process of their 800 MHz reconfiguration projects, as mandated by the Federal Communications Commission via the above-reference proceeding. I thought it appropriate that you be provided a copy of this letter given the January 12<sup>th</sup> letter you received from APCO, IACP, NSA, MCC, MCSA and IAFC. As you read the attached letter, you will notice that we, as well as most of the incumbents we are working with, share the very same concerns as these major national and international organizations.

Please feel free to contact me if you wish to further discuss the issue.

Sincerely,

Patrick A. McMaster  
Chief Executive Officer

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Letter to 800 MHz Incumbents Concerning  
Reasonable and Prudent Expenses

January 11, 2006

As a part of the City of Chicago's rebanding negotiations, I have had several meetings and conversations with Joe Vestal who is representing Sprint Nextel in its reconfiguration negotiations. It is apparent that Mr. Vestal's opinion that favors use of our Company's software is not shared by Sandy Edwards, Sprint Nextel's chief coordinator of the rebanding negotiations. Other Sprint Nextel negotiators around the Country have also noted that although our product appears to them to be a reasonable and prudent expenditure of rebanding, the resistance to funding is coming from "corporate" aka Sandy Edwards.

This untenable situation must be dealt with in a forthright manner, employing firm and consistent positions from adversely affected incumbents, in particular, public safety entities. It is unthinkable that Sprint Nextel would attempt to dictate to local and state governments, particularly when members of the Sprint Nextel team have come to understand the importance and reasonableness of this funding. It is truly vexing that a single individual, Sandy Edwards, believes that he alone can hold hostage this situation to the detriment of thousands upon thousands of first responders who are entitled to and require an efficient, well managed rebanding. And please be assured that any effort to shift the blame for Mr. Edwards preliminary position on the TA is laughable. The TA neither cares nor has the authority to approve or disapprove of such costs.

In this discussion, we wish to make it clear that the central issue is not whether public safety entities employ our software. What is on the table is whether Sprint Nextel will be allowed to dictate terms to public safety entities in these negotiations; and whether Sprint Nextel will be allowed to place its costs ahead of public safety operators' needs in determining the methods and tools for rebanding.

We are further disturbed that in the spirit of "negotiations," Sprint Nextel has often misled incumbent licensees regarding the rights and duties of the parties. False or colored statements have been recorded which will call into question whether Sprint Nextel's tactics have evidenced the good faith requirement set forth by the FCC in its orders. In our opinion, this very real question may require scrutiny by the agency, to determine whether incumbents have been lured into thinking that Sprint Nextel possesses any status greater than "arms length negotiator." In fact, it does not.

The FCC has been abundantly clear in its position, which is best summed up in the *Supplemental Order* at paragraph 15, wherein the FCC said, "We emphasize here that incumbents should incur no costs for band reconfiguration, and that the sole responsibility for paying all band reconfiguration costs – including the costs of preparing the estimate, negotiating the retuning agreement, and resolving any disputes, lies with Nextel." It can't get much clearer than this. I add to this that the FCC's relevant orders include project management and training as reimbursable costs in that list of items which is identified as inclusive but not limited in scope. Said as directly and forcefully as I can, without trying to ratchet up the rancor anymore than presently exists, for those public safety entities which assert that asset management software is a reasonable and prudent acquisition as a result of rebanding, that cost is

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fully reimbursable from Sprint Nextel. And, of perhaps equal importance, your public safety entity's costs for disputing a contrary position from Sprint Nextel is also a reimbursable cost. If you have been misled into believing anything else, be it from Sprint Nextel or a TA mediator, then I urge you to quickly reread the FCC orders. I also urge you to read and support the Petition For Reconsideration filed by Schwaninger & Associates, P.C. on January 3, 2006, which petition was filed by Robert Schwaninger in an effort to assure that the Wireless Telecommunications Bureau did not inadvertently misapply Nextel's obvious and emphasized duties.

I have personally invested \$2.5 million into this project and APCO has invested its time and resources as well for the purpose of creating a means by which rebanding could happen in a safe, sane manner. Our common goal has always been and will continue to be to protect and serve the first responders who will rely on each project manager, technical supervisor, and the teams of technicians to assure that communications are coordinated and maintained during this critical time. Together, MCM and the nation's largest incumbents have joined forces to create the best asset management/project management tool that we could conceive that would support each step in the rebanding process, so that actions taken are coordinated, recorded and subject to oversight by either the project manager, local public officials, or the TA auditors. It is, therefore, quite disturbing that this effort is being dismissed without authority, concern, or justification by Sprint Nextel, in what must be viewed as bald arrogance, not compliance with the dictates of the FCC.

In closing, let me make this quite clear. MCM Technology software will be a portion of the rebanding costs borne by Sprint Nextel. Operators are prepared to fight for it and refuse to enter into rebanding agreements without its inclusion as a portion of Sprint Nextel's costs. Therefore, for you it is only a matter of whether your agency will also enjoy the software's benefits during rebanding, or whether you will be content to use rudimentary spreadsheets and other insufficient, uncoordinated, poor recording methods while other agencies are using MCM software. Each incumbent stands alone before Sprint Nextel, but incumbents can unite over the basic principle that **Sprint Nextel may not dictate terms.**

There are times when first responders can only rely on their own, internal fortitude and sense of right in getting the job done. The ability to look at a challenge and say, "this will not beat me....this cannot be allowed, because the community is depending on me." Each day men and women risk their lives with this one thought in mind. It is up to all of us to make sure that the bravery of those first responders is reflected in our efforts here, because there will be direct consequences to those first responders arising out of what, together, we do today. MCM stands with those first responders and their needs and will not back down from this challenge. We urge you to join us in this effort.

Sincerely,

A handwritten signature in dark ink, appearing to read "Patrick A. McMaster", written in a cursive style.

Patrick A. McMaster  
Chief Executive Officer

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